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2014 APR 23 PM 12:07

CLERK U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
RIVERSIDE

BY: 

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

ADVANCED GROUP 96-61,  
LP,

Plaintiff,

vs.

HENRY LEPE AND DOES 1  
TO 10,

Defendants.

Case No. SACV 14-0555-UA (DUTYx)

ORDER SUMMARILY REMANDING  
IMPROPERLY-REMOVED ACTION

The Court will remand this unlawful detainer action to state court summarily because it has been removed improperly.

On April 10, 2014, defendant Henry Lepe, having been sued in what appears to be a routine unlawful detainer action in California state court, lodged a Notice of Removal of that action to this Court and also presented an application to proceed *in forma pauperis*. The Court has denied the latter application under separate cover because the action was not properly removed. To prevent the action from remaining in jurisdictional limbo, the Court issues this Order to remand the action to state court.

Simply stated, plaintiff could not have brought this action in federal court in the first place, in that defendant does not competently allege facts supplying either diversity or federal-question jurisdiction, and therefore removal is improper. 28

1 U.S.C. §1441(a); see Exxon Mobil Corp v. Allapattah Svcs., Inc., 545 U.S. 546, 563,  
2 125 S. Ct. 2611, 162 L. Ed. 2d 502 (2005). Even if complete diversity of citizenship  
3 exists, the amount in controversy does not exceed the diversity-jurisdiction threshold  
4 of \$75,000. See 28 U.S.C. §§ 1332, 1441(b). On the contrary, the unlawful-detainer  
5 complaint recites that the amount in controversy does not exceed \$10,000.

6 Nor does plaintiff's unlawful detainer action raise any federal legal question.  
7 See 28 U.S.C. §§ 1331, 1441(b).

8 Accordingly, IT IS ORDERED that (1) this matter be REMANDED to the  
9 Superior Court of California, Orange County, 1275 N. Berkeley Avenue, Fullerton,  
10 CA 92832, for lack of subject matter jurisdiction pursuant to 28 U.S.C. § 1447(c); (2)  
11 that the Clerk send a certified copy of this Order to the state court; and (3) that the  
12 Clerk serve copies of this Order on the parties.

13 IT IS SO ORDERED.

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15  
16 DATED: 4/20/14

  
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GEORGE H. KING  
CHIEF UNITED STATES DISTRICT JUDGE

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18 Presented by:

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21 David T. Bristow  
22 United States Magistrate Judge  
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